

Page -6-**DRAWING AMENDMENTS**

The enclosed replacement drawing sheets, being drawing sheets numbers 1 and 2, which contain Figure 1, and Figures 2 and 3, respectively, replace all prior versions which are currently of record in the present application.

On the drawing sheets, the following changes have been made:

Sheet 1

The lead line related to character "12" has been moved and amended to show that it points to the cup rim under the lid in Figure 1.

Sheet 2

Figure 3 has been amended to replace the cross-hatching of the cross-sectional view of the cup lid of Figure 2. Figure 3 has also been amended to more correctly show the circular stiffening rib "34" around the perimeter of opening "28". This is consistent with the depiction of stiffening rib 34 shown in Figure 2, and the description of stiffening rib 34, as described in paragraph 0042 of the application.

Page -7-**REMARKS**

Claims 1 to 8, 10, 12 and 13 are currently of record in the present application. Claims 9, 11 and 14 to 18 are directed to non-elected species as set out in Applicant's correspondence of February 2, 2006, and the Examiner has indicated that these claims are withdrawn. However, the Applicant contends, and the Examiner has previously indicated, that Claim 1 might act as a generic or linking claim that covers all species. As such, all of claims 1 to 18 are presented herein.

The issues raised in the Action are discussed hereinbelow.

Drawings

The Applicant has amended Figure 1 to provide a new lead line for character "12". The lead line is now directed towards the rim of the cup (which is shown in outline) rather than to the cup lid.

Figure 3 has also been amended to replace the cross-hatching so as to show a cross-sectional view. There was no intention on the part of the Applicant to provide an indication of the material of construction of the cup lid.

Figure 3 has also been amended to show the stiffening rib "34" located around condiment opening "28". The amendment to Figure 3 to show this feature is now consistent with the depiction of stiffening rib 34 shown in Figure 2.

Further, on review, it is clear that Figure 2 depicts a single rib 34 which extends around the perimeter of opening 28. As such, the previous description of the stiffening rib in the plural, namely "stiffening ribs" was in error. To correct this error, paragraphs [0016] and [0042] have been amended accordingly to replace "ribs" with "rib". Similar amendments have been made to Claim 8.

It is contended that this language better describes the embodiment shown in Figure 2, and that no new subject matter has been introduced as a result of this amendment.

Rejection under 35 USC § 102

Claims 1 to 4, 6, 7 and 9 to 12 currently stand as being rejected under 35 USC 102 (b) as

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being anticipated by US Patent No. 6314866 (hereinafter "Melton"). In view of the amendments presented herein, the Applicant respectfully traverses this rejection.

As the Examiner is aware, there are a myriad of various cup lids currently available in the market and/or described in numerous patents and patent applications. In this competitive market, minor variations in the cup lid design can provide significant advantages in the marketplace. In Applicant's correspondence of September 28, 2005, the advantage of the present invention was described with respect to the Melton device in that the Melton device has a condiment opening which is either essentially, or alternatively, substantially, centrally located within the cup lid. As shown in the drawing presented in Applicant's submission of September 28, 2005, the Melton cup lid is therefore more prone to leakage than the design of the present invention. This is because the central position of the Melton condiment opening allows liquid from the cup to more easily reach the condiment opening. In the present invention, the condiment opening is located more towards the opposite edge of the cup lid, and is therefore further away from the drinking opening. This is clearly shown in all of the figures of the present application.

The Applicant previously argued that the term "opposed" in Claim 1 restricted the position of the condiment opening to the position shown in Figures 1 to 8. However, the Examiner argues that the term "opposed" would also cover the design shown in Melton.

To better clarify the nature of the present invention, the Applicant has amended Claim 1 to indicate that the cup lid has two equal sides and that the drinking port is located in a first side, and the condiment opening is both opposed to the drinking port, and is also substantially located completely on the second side. Further, it is specified that the openings are diametrically opposed to one another, meaning that a line between the two openings would pass through the centre of the cup lid. These amendment clearly describe, and are consistent with all of the cup lids presented in Figures 1 to 8. Further, while there is no exact language to correspond to these newly added limitations, they are clearly shown in Figures 1 to 8. As such, no additional subject matter has been introduced as a result of this amendment.

As a result of these amendments, the Applicant contends that the present invention, as claimed, is not anticipated by the Melton document. Accordingly, the Applicant contends that the objection under 35 USC 102(b) has been obviated.

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Additionally, the invention of the present invention is not obvious in light of the Melton disclosure since Melton does not provide any motivation to the skilled artisan to move the condiment opening to be entirely located on a second side located and away from the drinking port.

Rejection under 35 USC § 103

Claim 5 currently stands as being rejected under 35 USC 103(a) as being obvious over Melton in view of Prueher (US Patent No. 4350260). In response, the Applicant acknowledges that hanging chads are known, but contends that Claim 5 is, *inter alia*, dependent on an allowable claim, and therefore the claim is not obvious.

Claim 8 also stands as being rejected under 35 USC 103(a) as being obvious over Melton in view of Kenihan (US Patent No. 6708735). Again, the Applicant acknowledges that stiffening ribs are known in the art but contends that Claim 8 is, *inter alia*, also dependent on an allowable claim. As such, the claim is not obvious in view of the cited prior art.

Further, Claim 13 also currently stands as being rejected under 35 USC 103(a) as being obvious over Melton. The Examiner maintains that it would be obvious to the skilled artisan to supply a cup lid wherein the extrusion grain of the lid was substantially aligned with the longitudinal axis of the flexible arm. The Applicant respectfully traverses this rejection.

By aligning the extrusion grain with the longitudinal axis of the flexible arm, the Applicant has made a flexible arm which is most resistant to tearing. As the Examiner will understand, a tear in a lid will most easily propagate along the extrusion grain lines. By aligning the extrusion grain with the longitudinal axis of the flexible arm, the Applicant has minimized the possibility of inadvertent removal of the flexible arm by having a tear propagate across the arm. In contrast, if the extrusion grain were to be perpendicular to the longitudinal axis of the flexible arm, this type of tearing across the flexible arm would occur more easily.

Further, by aligning the extrusion grain with the flexible arm, the cup lid of the present invention as shown in Figures 7 and 8 would benefit since the extrusion grain would also be aligned with the desired tear lines for opening fold-back tabs 72 and 82. This would permit the fold-back tabs to be opened more easily.

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Melton is silent as to the benefits of the use of the extrusion grain in this fashion. Accordingly, the Applicant contends that Claim 13 is not obvious over Melton.

Claims 1, 3, 6, 10 and 14 to 18 currently stand rejected under 35 USC 103(a) as being obvious over Figure 34 of Melton in view of Figure 27 of Melton. The Applicant again respectfully traverses this objection. First, Claims 3, 6, 10 and 14 to 18 are all either directly or indirectly dependent on Claims 1, and therefore are not obvious since they are, *inter alia*, dependent on an allowable claim. Further, while Figure 34 shows a flat cup lid, it does not show the condiment opening as being located only on a second side of the lid. As in Figure 27, the condiment opening extends across the middle of the cup lid, and extends into the side on which the drinking port is located. As such, it suffers from the same disadvantage as previously described, namely, the inadvertent contact of liquid from the cup with the condiment opening, and therefore the increased risk of leakage of liquid from the condiment opening.

The combination of Figures 27 and 34 do not address this deficiency.

Further, neither Figures 27 nor 34 describe a "tab outwardly extending" from the sealing member, which aids in the closing and opening of the condiment opening, as claimed in Claim 10.

With respect to Claims 14 to 18, the Applicant has claimed a flat lid having a sealing member at the end of a flexible arm. In contrast, on the flat lid of Melton, as shown in Figures 34 to 36, Melton has opted for a paper disk to be used to close the condiment opening. Even though the sealing member on a flexible arm is provided in Figure 27 with a raised, or domed lid, Melton is silent as to the use of a flexible arm with a sealing member on a flat lid.

Further, the combination of Figures 27 and 34 of Melton, do not provide any further guidance to the skilled artisan on the advantages of providing a cup lid, which is either flat or domed, in which the extrusion grain of the lid material is aligned with the longitudinal axis of the flexible arm.

The Applicant again stresses, however, that all of Melton's drawings show a condiment opening that extends across the central portion of the lid, and therefore all fall outside of the scope of the present invention.

The second objection to Claim 8 under 35 USC 103(a) over the art applied to Claim 1

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above, and further in view of Kenihan, is also respectfully traversed. While Kenihan provides stiffening ribs around the periphery of the condiment opening, the combination of Kenihan to any of the art applied to Claim 1, would not lead the skilled artisan to the present invention, as claimed in Claim 1, for the reasons presented hereinabove. Again, Claim 8 is, *inter alia*, dependent on allowable Claim 1, and therefore is also allowable.

Response to Arguments

The Examiner has commented on the Applicant's arguments previously presented, and the Applicant replies as follows.

With respect to the number of ribs around the condiment opening, the Applicant has amended the specification and claims to be consistent with the drawings, and describe only one rib around the perimeter of the condiment opening. As a result, the specification, claims and drawings are now consistent, and are in agreement with each other.

In Figures 7 and 8, it can be clearly seen that the stiffening rib, the cover portion and the rim portion generally lie in substantially the same plane, particularly when these figures are compared to Figures 1, 2, 4, 5 and 6. While a new cross-sectional view of either or both of Figures 7 or 8 can be provided if requested by the Examiner, it is felt that this is not necessary since Figures 7 and 8, when read in view of the specification and claims, clearly establish that the cup lid is essentially flat. Reference is made in particular to paragraph [0048] where the "flat" nature of the lid of Figure 7 is clearly described.

Since this lid is described as being "flat" it must follow that the Applicant considers the lid to lie substantially in a single plane.

Further, the phrase "lie substantially in the same plane" has been deliberately used to imply that the components do not lie exactly in one plane but are in a planar like configuration. As such, minor recesses, projections and the like in the lid are encompassed by this phrase. When compared to Figures 1 to 6, wherein a domed lid is shown, Figures 7 and 8 would be clearly understood by the skilled artisan to be directed to flat lids having various features which lie substantially in a single plane.

Finally, the Examiner comments on the use of the use of the position of the condiment

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opening as being "substantially opposed" to the drinking port. The Applicant has therefore amended the claims to indicate that the openings are substantially diametrically opposed, as previously discussed, and that the two openings are located on different sides of the cup lid. The combination of these features is clearly not provided in the Melton lids.

Other

Claim 5 has been amended to correct a clerical error introduced in a previous amendment. Specifically, "banging chad" has been replaced with "hanging chad". It is believed that this is an obvious correction of a clerical error.

It is believed that with these comments, a full and complete response to the Office Action of April 7, 2006 has been submitted. Further, it is believed that the present application is now in condition for allowance, and early notification to that effect is respectfully requested.

Should there be any remaining issues, the Examiner is requested to contact the undersigned by telephone in order to discuss or clarify any outstanding issues.

Respectfully submitted,
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